



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 21, 2005

Mr. Patrick J. Oegerle  
Kazen, Meurer & Pérez, L.L.P.  
P.O. Box 6237  
Laredo, Texas 78040

OR2005-06522

Dear Mr. Oegerle:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 230700.

The Laredo Independent School District (the "district"), which you represent, received a request for a "staffing or employee directory" of district employees, to include name, address, phone number, position, and campus information. You state that information concerning employees who did not elect to withhold home address and telephone number information, or who did not indicate their choice, has been released. You claim that the home addresses and telephone numbers of employees who elected to withhold such information is excepted from disclosure under section 552.117 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We must address the district's procedural obligations under section 552.301 of the Government Code. Under section 552.301(e), a governmental body receiving a request for information that the governmental body wishes to withhold pursuant to an exception to disclosure under the Public Information Act (the "Act") is required to submit to this office within fifteen business days of receiving the request (1) general written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. In this case, while you timely submitted the list of district employees the district desires to release to the requestor, we note you did not submit a copy of the responsive information containing the home addresses and telephone numbers you seek to withhold within the fifteen business day deadline.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released, unless the governmental body demonstrates a compelling reason to withhold the information from disclosure. *See* Gov't Code § 552.302; *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ) (governmental body must make compelling demonstration to overcome presumption of openness pursuant to statutory predecessor to section 552.302); Open Records Decision No. 319 (1982). Generally, a governmental body may demonstrate a compelling reason to withhold information by a showing that the information is made confidential by another source of law or affects third party interests. *See* Open Records Decision No. 630 (1994). The district's claim under section 552.117 can provide a compelling reason to overcome the presumption of openness.

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, social security numbers, and family member information of current or former officials or employees of a governmental body who timely elect to keep this information confidential pursuant to section 552.024. Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is received by the governmental body. *See* Open Records Decision No. 530 at 5 (1989). As you acknowledge, the district may only withhold information under section 552.117 on behalf of current or former officials or employees who elected to keep information confidential pursuant to section 552.024 prior to the date on which the request for this information was made. For those employees who timely elected to keep their home addresses and telephone numbers confidential, the district must withhold such information under section 552.117(a)(1). The district may not withhold this information under section 552.117 for those employees who did not make a timely election to keep the information confidential. The remainder of the requested information must be released. As Exhibit C constitutes a list of district employees omitting information that is excepted from disclosure under section 552.117(a)(1), we agree this information may be released to the requestor.<sup>1</sup>

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

---

<sup>1</sup> While the list submitted as Exhibit C may be released in satisfaction of the request and the district need not release a redacted version of the document submitted as Exhibit 1, we note that this office cannot issue a ruling without reviewing the information sought to be withheld. *See* Gov't Code § 552.301(e).

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,



David R. Saldivar  
Assistant Attorney General  
Open Records Division

DRS/seg

Mr. Patrick J. Oegerle - Page 4

Ref: ID# 230700

Enc: Submitted documents

c: Mr. David Reyes  
Texas Educator's Financial Services  
P.O. Box 7672  
Corpus Christi, Texas 78487  
(w/o enclosures)